

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2010-385-C - ORDER NO. 2012-497

JULY 5, 2012

IN RE: Application of Allied Wireless	) ORDER GRANTING
Communications Corporation d/b/a Alltel for	) CONDITIONAL
Designation as an Eligible	) DESIGNATION AS AN
Telecommunications Carrier	) ELIGIBLE
	) TELECOMMUNICATIONS
	) CARRIER

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of Allied Wireless Communications Corporation d/b/a Alltel (“Allied” or “the Company”) for designation as an Eligible Telecommunications Carrier (“ETC”) filed November 24, 2010 (the “Application”), and the Motion for Conditional Approval of ETC Status and for Expedited Consideration that was filed by Allied on June 7, 2012 (the “Motion”). Allied’s Motion is not opposed by any of the Intervenor in this case. We hereby grant and approve Allied’s Application for designation as an ETC, conditioned upon Allied being a successful bidder in the Federal Communication Commission’s Mobility Fund Phase I auction, as requested in the Motion.

**Procedural History**

The Application was filed on November 24, 2010, and sets forth Allied’s assertion and demonstration as to its qualifications for approval as an ETC pursuant to the applicable law and rules in effect at that time. Allied is represented in this matter by

Charles L.A. Terreni, Esquire, David A. LaFuria, Esquire, and Todd Lantor, Esquire. The Office of Regulatory Staff is represented by Nanette S. Edwards, Esquire, and C. Lessie Hammonds, Esquire; the Intervenor, Farmers Telephone Cooperative, Inc., FTC Communications, LLC, Horry Telephone Cooperative, Inc., Piedmont Rural Telephone Cooperative, Inc., PRT Communications, LLC, and the South Carolina Telephone Coalition are represented by M. John Bowen, Jr., Esquire, and Margaret M. Fox, Esquire.

A hearing was duly noticed, and held on March 3, 2011. Allied presented testimony in support of its Application at that time. Following the hearing, the Commission issued its Order No. 2011-509, dated July 29, 2011, holding the Application in abeyance. The Commission noted that the Federal Communications Commission (“FCC”) had stated its intent to reform the Universal Service Fund during the year 2011, and the Commission held Allied’s Application in abeyance in anticipation of the FCC’s action.

On November 18, 2011, the FCC issued an Order adopting comprehensive reform of the universal service system and created the Mobility Fund, part of the Connect America Fund.<sup>1</sup> The FCC indicated the Mobility Fund would provide up to \$300 million of one-time funding to accelerate the deployment of next generation 3G or better networks for mobile voice and broadband services in unserved areas. At the request of

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<sup>1</sup> Connect America Fund, WC Docket No. 10-90, A National Broadband Plan for Our Future, GN Docket No. 09-51, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Federal State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-up, WC Docket No. 03-109, Universal Service Reform - Mobility, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, rel. November 18, 2011 (“USF Transformation Order”)

Allied, in a letter dated February 3, 2012 (the “February 3rd Allied Letter”), the Application was held in abeyance until such time as the Federal Communications Commission (“FCC”) took additional action to implement its reform of universal service.

Subsequent to the February 3rd Allied Letter, the FCC determined that Phase I of the Mobility Fund would be awarded through a reverse auction on September 27, 2012 (the “Phase I Auction”).<sup>2</sup> The FCC also determined, on a preliminary basis, census blocks that are considered unserved and thus eligible for awards under the Phase I Auction.<sup>3</sup> However, not until May 2, 2012, did the FCC finalize the specific census blocks that the FCC considers unserved and, therefore, eligible for Mobility Fund – Phase I support at the upcoming reverse auction.<sup>4</sup>

Significantly, to be eligible to submit a bid in the Phase I Auction, a carrier must be designated as an ETC at that time Applications to participate in the Phase I Auction are filed, which is no later than July 11, 2012. Because the FCC has taken additional action as contemplated by the February 3rd Allied Letter, and requires a carrier to be designated as an ETC to be eligible for bidding, the Allied Motion was filed requesting that the Commission expeditiously grant Allied ETC status, conditioned on it being a successful bidder in the Phase I Auction.

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<sup>2</sup> Mobility Fund Phase I Auction Scheduled for September 27, 2012, Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements, AU Docket No. 12-25, Public Notice, DA 12-121 (rel. Feb. 2, 2012).

<sup>3</sup> Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I, WC Docket No. 09-197; WT Docket No. 10-208; AU Docket No. 12-25, Public Notice, DA 12-271 at para. 2 (rel. February 24, 2012).

<sup>4</sup> See *Mobility Fund Phase I Auction Scheduled for September 27, 2012, Notice and Filing Requirements and Other Procedures for Auction 901*, FCC Public Notice, AU Docket No. 12-25, DA 12-641 (May 2, 2012).

### **Jurisdiction and Authority**

In its capacity as a commercial mobile radio service (“CMRS”) carrier, Allied is entitled to seek designation as an ETC and Section 214(e)(2) of the Telecommunications Act of 1996 (the “Act”) authorizes state commissions to designate common carriers that meet the requirements as ETCs.<sup>5</sup> Section 103-690 of the S.C. Code Ann. Regs. provides that the Commission will fulfill its responsibility to designate common carriers as ETCs and establishes the requirements that an applicant must meet in order to be designated an ETC.<sup>6</sup>

### **Requirements for Designation**

To be designated an ETC, an applicant must: (1) be a common carrier, as defined by 47 U.S.C. § 153(10); (2) offer throughout its proposed service areas the supported services set forth in 47 C.F.R. § 54.101(a) either by using its own facilities or a combination of its own facilities and the resale of another carrier’s services;<sup>7</sup> (3) advertise the supported services throughout the designated service area.<sup>8</sup> Carriers are required to certify that they provide each of the supported services.<sup>9</sup> (4) provide a detailed description of the geographic service area for which it requests ETC designation from the

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<sup>5</sup> 47 U.S.C. 214(e)(2).

<sup>6</sup> See S.C. Code Reg 103-690(C).

<sup>7</sup> See 47 C.F.R. § 54.101. Section 54.101 of the FCC's Rules was recently modified by the FCC in its *Lifeline Reform Order*. See *In the Matter of Lifeline and Link Up Reform and Modernization*, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”). References in this Application to the FCC's rules refer to the rules as recently modified by the *Lifeline Reform Order*.

<sup>8</sup> 47 U.S.C. § 214(e)(1); see also S.C. Code Reg. § 103-690(C).

<sup>9</sup> See, e.g., 47 U.S.C. § 254(c); see also S.C. Code Reg. § 103-690(C)(a).

Commission; and (5) demonstrate that the Applicant meets the additional eligibility criteria set forth at Section 103-690 of the S.C. Code Regs.

**Discussion**

**1. Allied Has Demonstrated that it Meets the Federal and South Carolina ETC Requirements for at least a Conditional Designation as an ETC Under the Circumstances Described in this Case**

As demonstrated in the Application, Allied satisfies all the relevant requirements specified in Sections 254 and 214 of the Act and Section 103-690 of the S.C. Code Ann. Regs., for at least a conditional designation as an ETC under the present circumstances. Attached to the Application as Exhibit 3 is the affidavit of an officer of Allied certifying that it will comply with applicable requirements. Allied is (i) a common carrier as defined by 47 U.S.C. Section 153(10) , (ii) offers all the supported services,<sup>10</sup> (iii) uses its own facilities to provide the services, and (iv) offers service throughout its designated service area and following designation and success in receiving Phase I Auction funds it also will (v) advertise the availability of its universal service offerings and charges through media of general distribution, including advertising its Lifeline and Link Up services throughout its ETC service areas and will provide notices at local unemployment, social security and welfare offices in satisfaction of S.C. Code Ann. Regs. Sections 103-690.1(E)(a)(1) and 103-690.1(E)(b)(1), (vi) make Lifeline service available to qualifying low-income consumers without requiring a service deposit in

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<sup>10</sup> 47 U.S.C. Section 254(c); 47 C.F.R. Section 54.101(a); and S.C. Code Ann. Regs. Section 103-690 (C) (a).

order to initiate Lifeline Service if the consumer elects toll limitation services, will not charge such customer a monthly number portability charges, will verify annually that its Lifeline customers meet the qualifications and will provide sixty days notice to customers which it believes no longer qualify for Lifeline service,<sup>11</sup> (vii) certify that it complies with the service requirements applicable to the support it receives, (viii) submit a 2 year service improvement plan and while a proposed plan was attached to the Application, the actual plan will be determined and filed by Allied contingent on Allied successfully bidding for FCC Mobility Fund Phase I Auction funds, (ix) be able to remain functional in emergency situations,<sup>12</sup> (x) satisfy consumer protection and service quality standards which are set forth in the CTIA Consumer Code as described in the Application including annual certification of its compliance and reporting of consumer complaints in accordance with S.C. Code Reg. Sections 103-690(C)(1)(a)(C)(3) and 103-690.1(B)(b)(4), (xi) provide local usage plans comparable to the incumbent local exchange carriers already operating in the area, (xii) comply with applicable reporting requirements including, but not limited to annual progress reports required in S.C. Code Ann. Regs. Section 103-690.1, annual certification that it is able to remain functional in emergency situations required by S.C. Code Ann. Regs. Section 103-690(C) (2) and annual outage reporting requirements of S.C. Code Ann. Regs. Section 103-690.1(B) (b)(2) and (xiii) as explained below, take steps to limit fraud, waste and abuse in the federal universal fund programs.

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<sup>11</sup> See S.C. Code Ann. Reg. Section 103.690.1 (E) (a)-(b).

<sup>12</sup> S.C. Code Ann. Reg. Section 103-690(C)(a)(2).

On February 6, 2012, the FCC adopted comprehensive reforms to the low-income program to revise the Lifeline service requirements.<sup>13</sup> In the Lifeline Reform Order, the FCC adopted specific reforms attempting to limit fraud, waste and abuse in the low-income program. In the Allied Motion, the Company commits to comply with the rules as they are applicable.

**2. Granting Allied Conditional ETC Status for Purposes of Participating in the Mobility Fund will serve the Public Interest**

Section 103-690 (C) (b) of the S.C. Code Ann. Regs. provides that, in determining whether an ETC designation is in the public interest, the Commission must consider, *inter alia*, the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering. Considering these factors and others, the Commission holds that it is in the public interest that the Commission grant Allied conditional ETC designation. Some of the census blocks that the FCC determined are unserved are located in South Carolina within the area where Allied is licensed to provide commercial mobile radio service. Only a finite number of carriers are licensed to provide CMRS in these areas and it is likely that not all will bid for funds to provide service in the unserved areas. Thus, Allied, as a rural wireless carrier that is committed to bid for Phase I Auction funds to bring service to these unserved areas in South Carolina, is uniquely positioned to do so.

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<sup>13</sup> In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42, FCC 12-11, released February 6, 2012 ("Lifeline Reform Order").

Conditional designation and successful bidding by Allied will increase customer choice and service availability, and make new service available to consumers, including wireless broadband and Lifeline services, as the areas where the funds are to be used have been determined by the FCC to be presently unserved. These areas will therefore have service. Accordingly, approval of the Application as described above is clearly in the public interest. Further, as structured, the Mobility Fund will not adversely impact the current universal service mechanisms, as the funds for Phase I are funds allocated for that specific purpose. Approval of the Application on an expedited basis and conditioned upon Allied being a successful bidder in the Phase I Auction is clearly in the public interest.

Allied has represented that prior to filing the Allied Motion, Allied contacted each of the Intervenor and advised them of the substance of Allied's request that ETC designation be approved on a conditional basis, so that it could bid in the upcoming FCC Phase I Auction. Allied represented that each of the Intervenor indicated to Allied that they do not object to and will not oppose Allied's request for conditional ETC designation for receipt of Phase I Auction funds. No Intervenor has filed any opposition or response to the Allied Motion.

IT IS THEREFORE ORDERED THAT:

1. Allied Wireless Communications Corporation d/b/a Alltel is hereby designated as an ETC, conditioned on it being a successful bidder in the FCC Mobility Fund Phase I Auction in accordance with the representations and commitments made by Allied in the Application and the Allied Motion. A copy of this order shall be promptly



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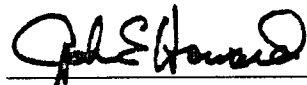
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provided by the Commission to the FCC and the Universal Service Administrative Company.

2. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



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John E. Howard, Chairman

ATTEST:



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David A. Wright, Vice Chairman

(SEAL)